

Second Notice of Public Availability of Modified Text and Availability of Additional Documents

Proposed Amendments to the Advanced Clean Trucks Regulation and the Zero-Emission Powertrain Certification Test Procedure

First Public Hearing Date: May 23, 2024
Second Public Hearing Date: October 24, 2024
Public Availability Date: November 21, 2024
Deadline for Public Comment: December 6, 2024

At its May 23, 2024 public hearing, the California Air Resources Board (CARB or Board) considered staff's proposed amendments to sections 1956.8, 1963, 1963.1, 1963.2, 1963.3, 1963.4, 1963.5, and the proposed adoption of new section 1963.6, Title 13, California Code of Regulations. Those proposed changes were intended to address minor issues that have arisen during CARB staff's implementation of the Advanced Clean Trucks regulation, and to fulfill some of CARB's commitments in the Clean Truck Partnership to initiate the rulemaking action for the proposed amendments in 2024. The proposed amendments generally consist of minor, administrative changes that have minimal cost impacts and no emissions impact.

At the May 23, 2024, hearing, several vehicle body upfitters and dealers spoke about their challenges in acquiring new medium- and heavy-duty internal combustion engine (ICE) powered trucks from manufacturers. As a result, the Board deferred its vote on the proposed amendments to a future hearing and directed staff to work with industry and other stakeholders to further assess the vehicle shortage situation.

After the May 23, 2024 hearing, CARB staff met with representatives from all major heavy-duty truck and engine manufacturers as well as other industry stakeholders to obtain information regarding possible factors underlying the vehicle shortage situation, and on September 25, 2024,¹ CARB staff submitted a memo to the Board that explained that staff's assessment of the pertinent information was that the vehicle shortages for the 2024 model year were not

¹ CARB, Memo to Board - Subject: California Truck Availability Analysis, September 25, 2024, https://ww2.arb.ca.gov/sites/default/files/2024-09/240925_actmemo_ADA_0.pdf, last accessed September 27, 2024.

driven by the ACT regulation, but could instead be attributed to several other unanticipated factors.

On October 7, 2024, CARB issued a “Notice of Public Availability of Modified Text and Availability of Additional Documents” (First 15-Day Changes). The notice was published on CARB’s website for this rulemaking at <https://ww2.arb.ca.gov/rulemaking/2024>. The first 15-day comment period closed on October 22, 2024, and stakeholders submitted 29 written comments during that comment period.

CARB staff reviewed all written public comments, evaluated the verbal testimony from the May 23, 2024, hearing, and followed up with stakeholders who submitted information to the rulemaking record. CARB staff presented Proposed Resolution 24-5 and recommended additional changes to the proposed amendments to the Board at its second public hearing on October 24, 2024. At the conclusion of the October 24, 2024, hearing, the Board adopted Resolution 24-5.

The Board directed the Executive Officer to make the modified regulatory language, and any additional conforming modifications, available for public comment, with any additional supporting documents and information, for a period of at least 15 days in accordance with Government Code section 11346.8. The Board further directed the Executive Officer to consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days, and present the regulation to the Board for further consideration if warranted, or take final action to adopt the regulation after addressing all appropriate modifications.

The resolution and all other regulatory documents for this rulemaking are available online at the following [CARB website: https://ww2.arb.ca.gov/rulemaking/2024/advancedcleantrucks](https://ww2.arb.ca.gov/rulemaking/2024/advancedcleantrucks)

CARB has determined that additional modifications are appropriate for the proposed amendments and has developed the additional proposed modifications (Second 15-Day Changes) as stated below in the “Summary of Proposed Modifications” section of this notice. The Attachments showing the specific proposed modifications to the text of the proposed regulation being made with these Second 15-Day Changes are shown in multiple ways in order to meet the requirements of the Administrative Procedure Act (APA) while also posting alternate/complementary versions that provide increased accessibility to view the modifications in multiple ways.

The Attachments are as follows:

Attachment A - Amendments to Sections 1963, 1963.1, 1963.2, 1963.3, 1963.4, and 1963.5 Title 13, California Code of Regulations

- Attachment A-1: Proposed Second 15-Day Modifications to Proposed Regulation Order (compared to version released for the First 15-Day Modifications)
- Attachment A-2: ~Alternative format to Attachment A-1~
- Attachment A-3: Cumulative Proposed Modifications to the existing Regulation (First and Second 15-Day Modifications and 45-Day Modifications combined and compared to existing regulatory text) in Alternative format

The Attachments showing the specific proposed modifications to the text of the proposed regulation orders available for comment with this Notice are provided in the two formats denoted with the suffixes “-1” and “-2.”

In the version denoted Attachment A-1, the 45-Day Changes (proposed regulatory language as posted on March 26, 2024) and the First 15-Day Changes are shown in “normal type.” The deletions and additions to the 45-Day Changes and the First 15-Day Changes that comprise the Second 15-Day Changes that are being made public and available for comment with this Notice are shown in ~~strikeout~~ to indicate deletions and underline to indicate additions.

In the version denoted Attachment A-2, the Second 15-Day Changes are provided in a tracked-changes format to meet the requirement for accessible electronic documents. The 45-Day Changes and the First 15-Day Changes are incorporated into this version as plain, clean text because they are not being made available for public comment by this Notice. The Proposed Second 15-Day Changes are shown in tracked changes and are made public with this Notice and available for comment. To review this document in a clean format, without underline or strikeout to show changes, that shows all the proposed regulation language being considered for adoption, please select “Simple Markup” or “No Markup,” or accept all changes in Microsoft Word’s Review menu. You can also change the view to the initially proposed 45-Day Changes (originally proposed regulatory text prior to these proposed modifications) with the First 15-Day Changes incorporated by selecting “Original” or rejecting all tracked changes. Additionally, “Advanced Track Changes Options” will allow for further options regarding color and other markings.

In the version denoted Attachment A-3, the existing, original regulatory language currently adopted into the California Code of Regulations (pre-45-Day Changes) is shown as plain, clean text, while the 45-Day Changes and the proposed First and Second 15-Day Changes are combined and shown in tracked changes. To review the net proposal in this document in a clean format (no underline or strikeout to show changes), please select “Simple Markup” or “No Markup” in Microsoft Word’s Review menu or accept all changes. You can also change the view to the original (originally proposed regulatory text prior to any proposed modifications, or 45-Day Changes) by selecting “Original” or rejecting all tracked changes. By progressing through the changes and comparing them with the 15-Day Changes, the public can see the net and stepwise changes being proposed in relation to existing law. Please refer to the version denoted A-1 to review the Second 15-Day Changes available for comment and its companion/alternate version A-2 to view an accessible version showing the Second 15-Day Changes.

In the Final Statement of Reasons, staff will respond to all comments received on the record during the comment periods. The APA requires that staff respond to comments received regarding all noticed changes. Therefore, staff will only address comments received during this second 15-day comment period that are responsive to this notice, or the changes detailed in Attachment A-1.

Summary of Proposed Modifications

The following summary does not include all modifications to correct typographical or grammatical errors, changes in numbering or formatting, nor does it include all of the non-substantive revisions made to improve clarity.

1. In section 1963(c), the definition for “Family emission limit” was added and has the same definition as 13 CCR 1956.8(j)(7). This proposed change is necessary to define a term used elsewhere in the regulation and to harmonize with the same definition used in other CARB heavy-duty regulations.
2. In section 1963(c), the definition for “Heavy heavy-duty engine” was added and has the same definition as 13 CCR 1956.8(j)(9). This proposed change is necessary to define a term used elsewhere in the regulation and to harmonize with the same definition used in other CARB heavy-duty regulations.
3. In section 1963(g), the term “on-road” was inserted in front of “vehicles produced and delivered for sale in California.” This proposed change is necessary to specify this requirement only applies to new 2025 and later model year on-road vehicles produced and delivered for sale in California. Additionally, the language “the manufacturer must indicate” was modified to “the manufacturer may optionally indicate whether”. This proposed change is necessary to specify that the labeling requirements described in this section are optional. The prior regulatory text required manufacturers to indicate if their vehicles were or were not intended for sale in California, and also stated that manufacturers that included such information were not subject to the provisions of 1963.5(a)(2)(A) and (B). Also in this section, the language “as described in sections 1963(g)(1-2)” was added. This proposed change is necessary to reference the sections that describe the requirements for the label in addition to the disclosure that must be provided to the entity that receives the vehicle from the manufacturer. This proposed change ensures appropriate stakeholder interpretation of the requirements. The language “if that information is included” was modified to “if the information described in sections 1963(g)(1-2) is included.” This proposed change is necessary to ensure appropriate stakeholder interpretation of the requirement by specifying which language is being referred. The language “Conversely, should this information be excluded upon the sale of a new 2025 model year or later vehicle” was replaced with “Otherwise.” This proposed change is necessary to concisely establish the requirements and to grammatically coincide with the other changes made to this section.
4. In section 1963(g)(1), the language “for sale in” was removed from the two occurrences of the phrase “for sale in CA”. This proposed change is necessary to align labeling requirements with the heavy-duty vehicle labeling requirements of the Omnibus regulation so that manufacturers are not required to design and produce multiple labels for vehicles produced and delivered for sale in California
5. In section 1963.1(a), the language “or vehicles specified in subsection 1963.1(a)(1)” was added. This proposed change is necessary to coincide with the inclusion of new section 1963.1(a)(1) that specifies vehicles that are not subject to deficit generation under certain conditions specified in that section.

6. A new section 1963.1(a)(1) was added. The proposed language is “*2026 Model Year California Certified Engine Flexibility*. A manufacturer does not accrue deficits for any on-road vehicles produced and delivered for sale in California that are powered by new 2026 model year California-certified heavy heavy-duty engines that are certified at or below an applicable oxides of nitrogen exhaust emission standard or family emission limit of 0.050 grams per brake horsepower-hour on the Federal Test Procedure cycle, as specified in 13 CCR section 1956.8(a)(2)(C)(1)”. This proposed change is necessary to support the sale of engines that meet the CARB emission standard (Omnibus compliant) without emissions offsets for the 2026 model year by helping ensure these engines stay competitive against lower cost, higher emitting legacy engines. This proposed change is not expected to decrease the number of ZEVs deployed and is consistent with the goals of both the ACT and Advanced Clean Fleet regulations because the Advanced Clean Fleets regulation requires regulated fleets to acquire zero-emission tractors at a higher rate than the ACT regulation.^{2,3} Specifying this provision only applies to heavy heavy-duty engines is necessary to have this provision only apply to the heaviest vehicles which produce the highest emissions. Specifying the 2026 model year is necessary to support new engines specifically in the period before future proposed harmonization with federal standards in 2027. Based on discussions with manufacturers, limited flexibility in 2026 is sufficient to drive the adoption of Omnibus-compliant engines in this sector, making further flexibility in earlier years unwarranted. Lastly, the citation of the Federal Test Procedure cycle as specified in Title 13, California Code of Regulations, Section 1956.8(a)(2)(C)(1) is necessary to ensure this section is referring to a specific certification under California’s Omnibus regulation.
7. In section 1963.2(e), the language “purchased” was added. This proposed change is necessary to establish that manufacturers may purchase ZEV or NZEV credits in addition to trading, selling, and otherwise transferring credits. Also in this section, the word “purchase” was added in the third sentence. This proposed change is necessary for consistency with the other change made in this section.
8. In section 1963.2(h), the language “Class 3” was added to the title and “medium-duty” was removed. This proposed change is necessary to clarify that this section only applies to incomplete medium-duty ZEVs from 10,001 through 14,000 pounds GVWR. Additionally in this section, a new sentence was added. The proposed language is “Beginning with the 2026 model year, incomplete medium-duty ZEVs may alternatively meet the requirements of 13 CCR section 1962.4 to receive ZEV credit under section 1963.2”. This proposed change is necessary to provide flexibility to manufacturers by including an additional certification option for incomplete medium-duty ZEVs to receive ZEV credit under ACT.
9. In section 1963.2(i), the language “and Incomplete Class 2b Vehicles” was added to the title. This proposed change was necessary for consistency with other changes made in this section. The language “and on-road incomplete medium-duty ZEVs from 8,501

² CARB, Advanced Clean Fleets: Initial Statement of Reasons – Appendix F: Emission Inventory and Analysis, 2022 (web link: <https://ww2.arb.ca.gov/rulemaking/2022/acf2022>, last accessed October 2024).

³ CARB, Updated Advanced Clean Fleets Inventory Analysis, 2023.

through 10,000 pounds GVWR” was added to this section. This proposed change is necessary to clarify how Incomplete Class 2b vehicles can certify to earn credit in the ACT regulation. Lastly, the language “sections B, D, and F(1-5) of” was added. This proposed change is necessary to specify the applicable sections that contain the ZEV certification procedures and to prevent other unintended requirements contained within the same document from applying.

10. In section 1963.2(j), the language “or NZEVs” was added. This proposed change is necessary to establish that NZEVs elected to count towards the requirements of ACC II will not be counted as a credit nor a deficit in the determination of the manufacturer’s ZEV deficit under ACT. This change is consistent with other requirements in this section and aligns treatment of NZEVs in both the ACC II and ACT regulations.
11. In section 1963.3 (b), the language “total” and “for all model years” was added. These proposed changes do not modify the intent of the regulatory text but were added to provide additional specificity for the deficits to be included in determining the net deficit balance. Also in this section, the language “and the manufacturer may not start a new deficit makeup period until all existing deficits are offset” was added. This proposed change provides clarity on the timeline for the expanded three-year flexibility. This change is necessary to specify that deficits are not carried over indefinitely, that zero-emission vehicles are ultimately produced and delivered for sale in California, and that emission reductions are achieved in California. Also in this section, a new sentence was added. The proposed language is “By the end of the 2026 model year, the manufacturer’s total net deficit balance for all model years in this example must be offset”. This proposed change was added to provide clarity in the provided example and reflects other proposed changes to this section. Also, the “nor NZEV” was inserted in the last sentence to specify that neither ZEV nor NZEV credits can be transferred to other manufacturers until a deficit is made up by the end of the compliance year.
12. In section 1963.4(a)(14), the word “and” was removed. This change was necessary to reflect the addition of new section 1963.4(a)(16).
13. In section 1963.4(a)(15), the language “or the dealership address from which the vehicle was delivered; and” “or the physical address, including the street address, city, state, and zip code of the dealership that delivered the vehicle to the person or entity that is the vehicle’s recipient; and” was added. This proposed change was added to provide additional flexibility for manufacturers who know the location of the dealership that a vehicle is delivered for sale in California but may not know the specific final delivery destination of a vehicle. This proposed change is not expected to have a significant effect on CARB’s ability to track vehicles and enforce the regulation.
14. In new section 1963.4(a)(16), the language “Whether the vehicle meets the requirements specified in subsection 1963.1(a)(1)” was added. This proposed change is necessary to conform with changes made to the requirements in section 1963.1(a). The proposed reporting change is necessary for compliance determination as the specified vehicles are excluded from generating deficits for the 2026 model year.
15. In section 1963.4(b), the language “may” was replaced with “must”, and “should a manufacturer determine” was replaced with “if a manufacturer determines there is a

change in previously reported information regarding whether.” This proposed change is necessary to specify that a manufacturer must update a vehicle report if the manufacturer determines there is a change in previously reported information regarding whether a vehicle was or was not delivered for sale in California. This change ensures that vehicle reports maintain accuracy for compliance determination.

16. In section 1963.5(a)(2), the language “ZEV or NZEV credit” was modified to “credit or deficit amount.” This proposed change is necessary to establish that the requirements of this section apply to all credits and deficits should false information be reported about any vehicle. Second, the word “was” was changed to “is” and the word “obtained” was removed. This proposed change is a necessary grammatical change given other modifications made in the same sentence. Also in this section, the language “or deficit amount” was added. This proposed change is necessary to conform with other changes in this section. Lastly, the language “deemed invalid” was replaced with “corrected when determining compliance.” This proposed change is necessary to conform grammatically with other changes in the same sentence as well as establish the point in which a correction would be made. This change aligns with the original intent of the language.
17. In section 1963.5(a)(2)(A), the language “is not registered or domiciled” was replaced with “was ultimately not produced and delivered for sale.” This proposed change is necessary to establish consistency in the point at which compliance is determined and to remain consistent with the Clean Truck Partnership. Changing the language to past tense is a necessary grammatical change to ensure appropriate stakeholder interpretation of the requirement. Also in this section, the language “and the manufacturer may be subject to penalty” was removed. This proposed change is necessary to ensure appropriate stakeholder interpretation of the requirement as the intent of the language is not to have a potential loophole by exempting a manufacturer from all penalties should the requirements of section 1963(g) be met. In addition, the removed language was surplusage as CARB already has statutory authority to assess penalties for infractions.
18. In section 1963.5(a)(2)(B), the language “which is newly registered with the California Department of Motor Vehicles or newly domiciled in California as a new vehicle” was modified to “that was ultimately produced and delivered for sale in California.” This proposed change is necessary to establish consistency in the point at which compliance is determined. Replacing the requirement that a vehicle must be newly registered with the Department of Motor Vehicles with a requirement to track vehicles produced and delivered for sale is necessary given that manufacturers are no longer required to track when vehicles reach the ultimate purchaser and the point of initial compliance is instead determined when a vehicle is produced and delivered for sale in California, which remains consistent with the Clean Truck Partnership. Changing the language to past tense is a necessary grammatical change to ensure appropriate stakeholder interpretation of the requirement. Also in this section, the language “and the manufacturer may be subject to penalty” was removed. This proposed change is necessary to ensure appropriate stakeholder interpretation of the requirement as the intent of the language is not to have a potential loophole by exempting a manufacturer from all penalties should the requirements of section 1963(g) be met. In addition, the

removed language was surplusage as CARB already has statutory authority to assess penalties for infractions.

These modifications do not change implementation of the regulation in any way that affects the conclusions of the environmental analysis included in the Staff Report because the modifications primarily consist of definition and provision clarifications or minor, administrative changes that do not alter the compliance responses, so no additional environmental analysis is required.

Additional Documents Added to the Record:

In the interest of completeness and in accordance with Government Code section 11347.1, subdivision (a), staff has also added to the rulemaking record and invites comments on an additional document:

- CARB, Advanced Clean Fleets Regulation - Appendix F: Emissions Inventory and Results, August 30, 2022 (web link: <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/acf22/appf.pdf> , last accessed October 16, 2024).
- CARB, Updated Advanced Clean Fleets Inventory Analysis, 2023.

This document is available for inspection at the California Air Resources Board, 1001 I Street, Sacramento, California, 95814, between the hours of 9:00am to 4:00pm, Monday through Friday (excluding holidays). To inspect this document, please contact Bradley Bechtold, Regulations Coordinator, at (279) 208-7266.

Agency Contacts

Inquiries concerning the substance of the proposed regulation may be directed to Paul Arneja, Air Resources Supervisor, at (279) 208-7342 or (designated back-up contact) Kat Talamantez, Air Pollution Specialist, at (916) 282-6265.

Public Comments

Written comments will only be accepted on the modifications identified in this Notice. Comments may be submitted by postal mail or by electronic submittal no later than the due date to the following:

Postal mail: Clerks' Office, California Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <https://ww2.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and verbal comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

In order to be considered by the Executive Officer, comments must be directed to CARB in one of the two forms described above and received by CARB no later than the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulations shall be considered by the Executive Officer.

If you need this document in an alternate format or another language, please contact the Clerks' Office at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alternativo u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

California Air Resources Board



Steven S. Cliff, Ph.D.,
Executive Officer

Date: November 21, 2024

Attachments

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see [CARB's website](http://www2.arb.ca.gov) (www2.arb.ca.gov).